

MINUTES

North Dakota State Water Commission Bismarck, North Dakota

May 9, 2007

The North Dakota State Water Commission held a meeting at the State Office Building, Bismarck, North Dakota, on May 9, 2007. Governor John Hoeven, Chairman, called the meeting to order at 1:30 PM, and requested State Engineer, and Chief Engineer-Secretary to the State Water Commission, Dale L. Frink, to call the roll. Governor Hoeven announced a quorum was present.

STATE WATER COMMISSION MEMBERS PRESENT:

Governor John Hoeven, Chairman
Roger Johnson, Commissioner, North Dakota Department of Agriculture, Bismarck
Arne Berg, Member from Devils Lake
Maurice Foley, Member from Minot
Larry Hanson, Member from Williston
Elmer Hillesland, Member from Grand Forks
Jack Olin, Member from Dickinson
Harley Swenson, Member from Bismarck
Robert Thompson, Member from Page

OTHERS PRESENT:

Dale L. Frink, State Engineer, and Chief Engineer-Secretary,
North Dakota State Water Commission, Bismarck
State Water Commission Staff
Approximately 75 people interested in agenda items

The attendance register is on file with the official minutes.

The meeting was recorded to assist in compilation of the minutes.

CONSIDERATION OF AGENDA

There being no additional items for the agenda, Governor Hoeven announced the agenda approved as presented.

**CONSIDERATION OF DRAFT MINUTES
OF DECEMBER 8, 2006 STATE WATER
COMMISSION MEETING - APPROVED**

The draft minutes of the December 8, 2006 State Water Commission meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Johnson, and unanimously carried, that the draft minutes of the December 8, 2006 State Water Commission meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF FEBRUARY 15, 2007 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the February 15, 2007 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Johnson, and unanimously carried, that the draft minutes of the February 15, 2007 State Water Commission audio conference call meeting be approved as prepared.

**CONSIDERATION OF DRAFT MINUTES
OF APRIL 12, 2007 STATE WATER
COMMISSION AUDIO CONFERENCE
CALL MEETING - APPROVED**

The draft minutes of the April 12, 2007 State Water Commission audio conference call meeting were approved by the following motion:

It was moved by Commissioner Berg, seconded by Commissioner Johnson, and unanimously carried, that the draft minutes of the April 12, 2007 State Water Commission audio conference call meeting be approved as prepared.

**STATE WATER COMMISSION
BUDGET EXPENDITURES,
2005-2007 BIENNIUM**

In the 2005-2007 biennium, the State Water Commission has two special line items - administrative and support services, and water and atmospheric resources expenditures. The allocated program expenditures for the period ending March 31, 2007, reflecting 88 percent of the 2005-2007 biennium, were presented and discussed by David Laschkewitsch, State Water Commission accounting manager. The expenditures, in total, are within the authorized budget. **SEE APPENDIX "A"**

The Contract Fund spreadsheet, attached hereto as **APPENDIX "B"**, provides information on the committed and uncommitted funds from the Resources Trust Fund, the Water Development Trust Fund, and the potential bond proceeds. The total approved for projects is \$61,591,571, leaving a balance of \$11,493,618 available to commit to projects.

**RESOURCES TRUST FUND
AND WATER DEVELOPMENT
TRUST FUND REVENUES,
2005-2007 BIENNIUM**

The oil extraction tax deposits into the Resources Trust Fund total \$22,062,398 and are currently \$6,977,372, or 46.2 percent ahead of the budgeted revenues.

Deposits into the Water Development Trust Fund total \$19,644,728 and are currently \$1,030,132, or 5.0 percent behind budgeted revenues.

**STATE WATER COMMISSION
BUDGET, 2007-2009 BIENNIUM**

The State Water Commission submitted its 2007-2009 biennium budget request to the Office of Management and

Budget (OMB) on September 27, 2006. On December 6, 2006, Governor Hoeven released the executive budget recommendations for the 2007-2009 biennium. The executive recommendation for the State Water Commission totaled \$174,610,555:

Administrative and Support Services	\$ 2,456,295
Water and Atmospheric Resources	<u>\$172,154,260</u>
Total	\$174,610,555
General Funds	\$ 13,687,506
Federal Funds	\$ 27,504,199
Other Funds	<u>\$133,418,850</u>
Total	\$174,610,555

Senate Bill 2020, the State Water Commission's appropriation bill, was heard before the Senate Appropriations Committee on January 19, 2007, and passed the Senate on February 14, 2007. Engrossed Senate Bill 2020 was heard before the House Appropriations Committee, Education and Environmental Division, on March 2, 2007, and passed the House on March 27, 2007. Reengrossed Senate Bill 2020 was signed by Governor Hoeven on May 1, 2007.

Senate Bill 2020 provides the authority for an appropriation of \$176 million dollars in the 2007-2009 biennium, which includes \$13.9 million in general fund authority, \$27.5 million in federal fund authority, and \$134.6 million in special fund authority. The appropriation provides approximately \$60 million in funds for new projects and \$33 million of state carry over for projects not completed in the 2005-2007 biennium. Senate Bill 2020 also provides funding the State Water Commission's operations from the general fund.

(Note: See 2007 legislative report section in these minutes for a detailed summary of Senate Bill 2020, proposed project allocations for the 2007-2009 biennium, and legislation relating to other water issues.)

**APPROVAL TO PROCEED WITH
REFUNDING OF SOUTHWEST
PIPELINE PROJECT BOND AND
USDA RURAL DEVELOPMENT LOANS
(SWC Project No. 1736-02)**

Series 1997A, and USDA Rural Development loans - Series 1997B, Series 1999A, Series 2000B, Series 2001A, Series 2002A, and Series 2003A. A preliminary analysis for refunding the bonds, attached hereto as **APPENDIX "C"**, estimates a total net savings of approximately \$3,352,449 could be saved over the life of the bonds.

The refunding maintains bond payments approximately equal to the current combined payments and shortens the repayment period. Interest rates on existing bonds range from 4.375 percent to 5.75 percent. The refunded bonds issue is projected to range from 3.85 percent to 4.4 percent.

It was the recommendation of Secretary Frink that the State Water Commission proceed with refunding the outstanding Southwest Pipeline Project bond - Series 1997A, and USDA Rural Development loans - Series 1997B, Series 1999A, Series 2000B, Series 2001A, Series 2002A, and Series 2003A; and, adopt the general authorization resolution.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission proceed with refunding the outstanding Southwest Pipeline Project bond - Series 1997A, and USDA Rural Development loans - Series 1997B, Series 1999A, Series 2000B, Series 2001A, Series 2002A, and Series 2003A; and, adopt the general authorization resolution. Executed general authorization resolution is attached hereto as APPENDIX "D".

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**APPROVAL OF 2005-2007 BIENNIUM
UNEXPENDED OBLIGATIONS CARRIED
FORWARD TO 2007-2009 BIENNIUM
(SWC Project No. 1753)**

Secretary Frink stated that commonly water projects require several years to implement due to regulatory issues, funding needs, and contracting, bidding and construction delays. Contracts for projects and programs that were previously obligated for cost share from the contract fund, but were not completed in the 2005-2007 biennium, were presented for the State

Public Financial Management, Inc. and RBC Dain Rauscher, the State Water Commission's financial manager and underwriter, respectively, have recommended the refunding of the outstanding Southwest Pipeline Project bond -

Secretary Frink stated that commonly water projects require several years to implement due to regulatory issues, funding needs, and contracting, bidding and construction delays. Contracts for

Water Commission's consideration for continuation in the 2007-2009 biennium with the exception of the Grafton flood control project in the amount of \$500,000. The city of Grafton voted not to pursue a flood control project at this time:

<u>Project</u>	<u>2005-2007 Obligated Amount</u>	<u>2005-2007 Obligated Amount To Be Returned</u>	<u>2007-2009 Obligated Amount Carried Forward</u>
Grafton Flood Control Project	\$ 500,000	\$ 500,000	0

It was the recommendation of Secretary Frink that the State Water Commission continue its unexpended cost share obligations from the contract fund for the incomplete projects to the 2007-2009 biennium, with the exception of the Grafton flood control project.

It was moved by Commissioner Swenson and seconded by Commissioner Johnson that the 2005-2007 biennium programs and general projects unexpended obligation amounts (which includes all previous bienniums carry over) be carried forward to the 2007-2009 biennium (July 1, 2007 through June 30, 2009), with the exception of the Grafton flood control project. This motion is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**2007 LEGISLATIVE REPORT;
AND PROPOSED PROJECT
ALLOCATIONS FOR 2007-2009
BIENNIUM**

by the legislature relating to water issues are summarized in a memorandum attached hereto as **APPENDIX "E"**.

Secretary Frink commented that the 2007 legislative session was very positive for water in North Dakota. Senate Bill 2020, the State Water Commission's appropriation bill, and other bills passed

Secretary Frink presented and discussed the proposed project allocations for the 2007-2009 biennium, which are included in **APPENDIX "E"**.

**STATE ENGINEER AUTHORITY
TO APPROVE ELIGIBLE PROJECT
COSTS OVERRUNS
(SWC Project No. 1753)**

At its meeting on August 13, 1998, the State Water Commission authorized the State Engineer to approve and expend up to \$20,000 to develop and manage the water resources of the state when

responding to emergencies, project costs overruns, and the completion of smaller projects in a timely manner. Project costs estimated in excess of \$20,000 are presented for the State Water Commission's consideration.

Secretary Frink explained that because of the state's funding constraints and the magnitude of projects, state cost share participation may be extended over several bienniums resulting in cost overruns at the time of project completion.

It was the recommendation of Secretary Frink that the State Water Commission authorize the State Engineer to approve eligible project cost overruns up to 10 percent of the total amount approved for the project, but not to exceed a \$20,000 increase. This authority would ease project completions and wrap-ups and eliminate the need for the Commission to consider small project cost overruns.

It was moved by Commissioner Olin and seconded by Commissioner Thompson that the State Water Commission authorize the State Engineer to approve eligible project cost overruns up to 10 percent of the total amount approved for a project, but shall not exceed a \$20,000 increase.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

(Note: As a result of this action, the State Water Commission's consideration of requests for project overrun costs relating to the construction of Cooper Drain No. 3, Griggs county; Traill County Drain No. 6 extension project; and the Wild Rice snagging and clearing project, Richland county, were withdrawn at its May 9, 2007 meeting.)

**BURNT CREEK FLOODWAY
DIVERSION CHANNEL IMPROVE-
MENT RECONSTRUCTION AND
EXTENSION - APPROVAL OF STATE
COST PARTICIPATION (\$177,220)
(SWC Project No. 1572)**

A request from the Burleigh County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to extend and reconstruct a portion of the existing Burnt Creek floodway diversion channel. High

flow events within the Burnt Creek watershed and the low stages on the Missouri River have resulted in significant head cutting in the channel. The cut has been advancing up-gradient toward the existing concrete drop structure that could be severely damaged or lost if corrective action is not taken.

The Burnt Creek floodway diversion channel was originally constructed in 1975 by the Soil Conservation Service approximately 4.5 miles north of Bismarck, ND. A concrete drop structure was constructed to lower the elevation of the water in the floodway channel to prevent erosion. The original channel was designed with a 100-foot bottom width upstream from the existing drop and 90 feet wide downstream, 6.5 feet deep with 4:1 side slopes. This flood control project was designed to provide 100-year flood protection for land south of the channel and protect agricultural land and significant residential property from flooding.

The rehabilitation project will include the construction of a new sheet pile drop structure and reconstruction of 1,600 feet of eroded channel in Hay Creek township. A new rock riprap drop will also be constructed where the oxbow channel discharges to the floodway diversion channel. Upon project completion, the channel will be approximately nine-tenths of a mile long, and the rehabilitated and reconstructed channel section will be 76 feet wide, and 15 feet deep with 4:1 side slopes. No additional diking is planned and additional easements will be obtained where required. Much of the work will be completed within the original project easement areas. The preliminary engineering plans are on file and the District has submitted construction permit application No. 2123. Federal funding is not available for the channel improvement, reconstruction and extension and, as no assessment district was formed, the local share of the project will be funded by the Burleigh County Water Resource District.

The project engineer's cost estimate is \$540,542, of which \$506,342 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$177,220). Pursuant to the State Water Commission's cost share policy, conditional approval of rural flood control drainage projects is allowed subject to satisfaction of the required drain permit. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$177,220.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$177,220 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Burnt Creek floodway diversion channel improvement reconstruction and extension project.

It was moved by Commissioner Swenson and seconded by Commissioner Berg that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$177,220 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Burnt Creek floodway diversion channel improvement reconstruction and extension project. This action is contingent upon the availability of funds, and satisfaction of the required drain permit.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 45
EXTENSION CONSTRUCTION
PROJECT - APPROVAL OF STATE
COST PARTICIPATION (\$179,800)
(SWC Project No. 1093)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to extend Cass County Drain No. 45 to improve

agricultural lands within the assessment district and mitigate existing channel erosion issues.

The project consists of extending Cass County Drain No. 45 through Sections 4, 9, 16, 17, 20, and 21 of Reed Township. The proposed extension construction work will consist of widening and flattening the side slopes of the existing natural water course, creating a legal drain corridor, and stabilizing the existing channel erosion. With the extension, the total length of Cass County Drain No. 45 will be approximately six miles. Using the watershed area and assessment area provided by the project engineer, approximately 18 percent of the runoff contributing to Cass County Drain No. 45 is urban, and approximately 82 percent of the runoff contribution is from agricultural lands. The 35 percent state cost share for rural flood control projects was adjusted to 29 percent to reflect the corresponding improvement for agricultural lands.

The project engineer's cost estimate is \$830,000, of which \$620,000 is determined eligible for state cost participation as a rural flood control project at 29 percent of the eligible costs (\$179,800). Pursuant to the State Water Commission's cost share policy, conditional approval of rural flood control drainage projects is allowed subject to a six-month time period for receiving a positive local assessment vote. Final approval will be granted upon notification of a positive assessment vote and satisfaction of the required drain permit. The request before the State Water Commission is for a 29 percent state cost participation in the amount of \$179,800.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 29 percent of the eligible costs, not to exceed an allocation of \$179,800 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for the Cass County Drain No. 45 extension construction project.

It was moved by Commissioner Olin and seconded by Commissioner Johnson that the State Water Commission approve conditional state cost participation as a rural flood control project at 29 percent of the eligible costs, not to exceed an allocation of \$179,800 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for the Cass County Drain No. 45 extension construction project. This action is contingent upon the availability of funds, attainment of a positive local assessment vote, receipt of the project's final design, and satisfaction of the required drain permit.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CASS COUNTY DRAIN NO. 66
CONSTRUCTION PROJECT -
APPROVAL OF STATE COST
PARTICIPATION (\$147,000)
(SWC Project No. 1944)**

A request from the Southeast Cass Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project to construct Cass County Drain No. 66 to address

the existing under sizing drainage watercourse in Mapleton and Barnes townships, and improve agricultural lands within the proposed assessment district.

The proposed project consists of constructing a channel in Sections 24 and 13 of Mapleton Township and Section 18 of Barnes Township. The constructed channel will be approximately 2 miles in length and

will be combined with approximately 2.5 miles of natural watercourse to the south. The natural watercourse is located in Sections 25, 26, and 27 of Mapleton Township. The channel will be constructed with a 10-foot bottom, 4:1 side slopes, an approximate grade of 0.05 percent, and an approximate cut of 4 feet. The total contributing drainage area is 13,530 acres. The culverts in Sections 24 and 13 will be removed, and no culverts will be removed or installed in the natural watercourse. The project will outlet into the Sheyenne River diversion via the construction and installation of a pump/lift station.

The project engineer's cost estimate is \$630,000, of which \$420,000 is determined eligible for state cost participation as a rural flood control project at 35 percent of the eligible costs (\$147,000). Pursuant to the State Water Commission's cost share policy, conditional approval of rural flood control drainage projects is allowed subject to a six-month time period for receiving a positive local assessment vote. A sediment analysis is not required as this is considered construction of a new assessment drain. Final approval will be granted upon notification of a positive assessment vote and satisfaction of the required drain permit. The request before the State Water Commission is for a 35 percent state cost participation in the amount of \$147,000.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$147,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Cass County Drain No. 66 construction project.

It was moved by Commissioner Johnson and seconded by Commissioner Foley that the State Water Commission approve conditional state cost participation as a rural flood control project at 35 percent of the eligible costs, not to exceed an allocation of \$147,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Cass County Drain No. 66 construction project. This action is contingent upon the availability of funds, attainment of a positive local assessment vote, receipt of the project's final design, and satisfaction of the required drain permit.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NIEUWSMA DAM, EMMONS
COUNTY - APPROVAL OF STATE
COST PARTICIPATION (\$30,000)
(SWC Project No. 512)**

A request from the Emmons County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project for the repair of Nieuwsma Dam.

Nieuwsma Dam is located in Emmons county approximately 2 miles north of the South Dakota border and one mile east of U.S. Highway 83. The dam was built in 1935 and is used for recreation and provides for a livestock water supply. The dam is presently in unsatisfactory condition and several items need repair to prevent further deterioration of the dam including the concrete spillway, and a small sinkhole on the crest of the dam.

The rehabilitation project will involve the construction of a new concrete apron at the base of the spillway and the application of gunite to the spillway face. The project will include the removal of trees, and repairing the sinkhole on the dam embankment. The State Water Commission's construction crew will perform the rehabilitation work. A construction permit and conditional water use permit have been applied for, and a Section 404 permit from the Corps of Engineers is on file.

The project engineer's cost estimate is \$83,000, all of which is determined eligible for state cost participation as a recreation project at 33.33 percent of the eligible costs (\$27,666). The remaining costs would be shared by the North Dakota Game and Fish Department (33.33 percent) and the Emmons County Water Resource District (33.33 percent). The request before the State Water Commission is for a 33.33 percent state cost participation in the amount of \$30,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a recreation project at 33.33 percent of the eligible costs, not to exceed an allocation of \$30,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the repair costs associated for the rehabilitation of Nieuwsma Dam in Emmons county.

It was moved by Commissioner Swenson and seconded by Commissioner Hanson that the State Water Commission approve state cost participation as a recreation project at 33.33 percent of the eligible costs, not to exceed an allocation of \$30,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the repair costs associated for the rehabilitation of Nieuwsma Dam in Emmons county. This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***RICHLAND COUNTY DRAIN NO. 65 -
APPROVAL OF STATE COST
PARTICIPATION (\$47,815)
(SWC Project No. 1207)***

A request from the Richland County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project consisting of the

improvement reconstruction of a lateral to Richland County Drain No. 65 and the construction of an extension to that lateral. The existing lateral and existing natural waterway have encountered extreme flows causing extension erosion and overland flooding at the project site.

The proposed project entails the improvement reconstruction of .56 mile of an existing lateral to Richland County Drain No. 65 and the construction of .25 mile of an extension to that lateral all in Section 26, Tier 130 North, Range 49 West. The existing lateral was constructed in 1965 by the Natural Resources Conservation Service with 4:1 side slopes, a 20-foot bottom, and a depth of 2-4 feet. The channel will be reconstructed with 6:1 side slopes, the bottom width and depth will remain unchanged. The construction of berms on both sides of the channel will prevent overland flooding which will improve agricultural lands. Two drop structures will be installed to help control erosion and degradation of the stream bottom.

The project engineer's cost estimate is \$167,801, of which \$151,301 is determined eligible for state cost participation as a rural flood control project at 30-35 percent of the eligible costs (\$47,815). Pursuant to the State Water Commission's cost share policy, conditional approval of rural flood control drainage projects is allowed subject to a six-month time to satisfy the requirements of the drain permit. A sediment analysis is not required for the new construction cost shared at 35 percent on the eligible items. Because the District chose not to submit a sediment analysis for the reconstruction portion of the project, the reconstruction portion will be cost shared at 30 percent on the eligible items. The request before the State Water Commission is for a 30-35 percent state cost participation in the amount of \$47,815.

It was the recommendation of Secretary Frink that the State Water Commission approve conditional state cost participation as a rural flood control project at 30-35 percent of the eligible costs, not to exceed an allocation of \$47,815 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Cass County Drain No. 65 project.

It was moved by Commissioner Berg and seconded by Commissioner Hillesland that the State Water Commission approve conditional state cost participation as a rural flood control project at 30-35 percent of the eligible costs, not to exceed an allocation of \$47,815 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Cass County Drain No. 65 project. This action is contingent upon the availability of funds, and satisfaction of the required drain permit.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SPRING CREEK BANK STABILIZATION
PROJECT - APPROVAL OF STATE COST
PARTICIPATION (\$30,000)
(SWC Project No. 1291)***

A request from the Mercer County Water Resource District was presented for the State Water Commission's consideration for state cost participation in the District's project relating to bank

erosion of the right bank of Spring Creek in the city of Zap, ND.

The bank erosion extends approximately 200 feet downstream from the third avenue bridge in the city. To protect the bank from erosion, the bank would be shaped to a slope of 1.5 horizontal to 1 vertical and rock riprapped. Approximately 250 feet upstream of the bank erosion site, a railroad bridge was removed and the piles of debris still remain which have resulted in the loss of vegetation along the banks. The piles of debris would be removed and the bank at the old railroad bridge location would be reseeded.

The project engineer's cost estimate is \$60,000, all of which is determined eligible for state cost participation as a bank stabilization project at 50 percent of the eligible costs (\$30,000). The State Water Commission's construction crew will perform the work. The request before the State Water Commission is for a 50 percent state cost participation in the amount of \$30,000.

It was the recommendation of Secretary Frink that the State Water Commission approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$30,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Spring Creek bank stabilization project in Mercer county.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission approve state cost participation as a bank stabilization project at 50 percent of the eligible costs, not to exceed an allocation of \$30,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Spring Creek bank stabilization project in Mercer county. This action is contingent upon the availability of funds, issuance of a permit by the city of Zap authorizing construction in a regulatory floodway, and approval from the U.S. Army Corps of Engineers.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***MR&I WATER SUPPLY PROGRAM -
MR&I COMMITTEE REPORT; AND
PROJECT STATUS REPORT
(SWC Project No. 237-03)***

The State Water Commission and the Garrison Diversion Conservancy District Municipal, Rural and Industrial (MR&I) committee met by telephone conference on April 30, 2007 to discuss the status

and funding of MR&I projects. The committee recommended funding for the Northwest Area Water Supply (NAWS) Project, which was considered by the State Water Commission under a separate action on May 9, 2007. Projects recommended for funding, and the projects status are summarized in a Commission staff memorandum, dated April 30, 2007, and attached hereto as ***APPENDIX "F"***.

***CITY OF DEVILS LAKE
WATER SUPPLY PROJECT -
APPROVAL OF STATE FUNDS
(\$2,700,000); AND REALLOCATION
OF STATE FUNDS (\$1,440,000) FROM
DEVILS LAKE LEVEE SYSTEM PROJECT
(SWC Project Nos. 416-02)***

On December 6, 2002, the State Water Commission approved an allocation not to exceed \$4,074,202 for state cost participation in the extension and raise of the Devils Lake levee system, Stages I-III.

The city of Devils Lake is currently undertaking an emergency water supply project for which the city is seeking state financial assistance. Six miles of the city's existing water line is presently submerged under Devils Lake. If the submerged water line were to fail, it could threaten the city's water supply. The estimated cost to build a proposed pipeline from an aquifer near Tolna is \$10,000,000. The new water supply would comply with the Environmental Protection Agency's requirements for arsenic standards.

A request was presented for the State Water Commission's consideration to reduce the state's financial obligation by \$1,440,000 for the Devils Lake levee system, Stages I-III, and reallocate that amount (\$1,440,000) to the Devils Lake water supply project; and to consider an allocation up to \$2,700,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021) for the Devils Lake water supply project.

Fred Bott, mayor, city of Devils Lake, appeared before the State Water Commission to present detailed project information. The regionalization of water systems was discussed, and Mr. Bott responded to concerns from the Commission members regarding the city of Devils Lake and the Ramsey County Rural Water efforts that prevented a joint city-rural water district project.

It was the recommendation of Secretary Frink that the State Water Commission reduce the state's financial obligation by \$1,440,000 for the Devils Lake levee system, Stages I-III, and reallocate that amount (\$1,440,000) to the Devils Lake water supply project. It was also the recommendation of Secretary Frink that the State Water Commission approve an allocation up to \$2,700,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), to the Devils Lake water supply project. The State Water Commission's affirmative action would provide a total state cost participation of \$4,140,000 for the Devils Lake water supply project, and a financial obligation of \$2,634,202 for the Devils Lake levee system, Stages I-III.

It was moved by Commissioner Johnson and seconded by Commissioner Hillesland that the State Water Commission:

- 1) reduce the state's financial obligation by \$1,440,000 for the Devils Lake levee system, Stages I-III, and reallocate that amount (\$1,440,000) to the Devils Lake water supply project; and***
- 2) approve an allocation up to \$2,700,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the Devils Lake water supply project. This action is contingent upon the availability of funds.***

This action provides a total state cost participation of \$4,140,000 for the Devils Lake water supply project, and a state financial obligation of \$2,634,202 for the Devils Lake levee system, Stages I-III.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**CITY OF WILLISTON WATER
SYSTEM IMPROVEMENTS -
APPROVAL OF PARTIAL
ADVANCE OF STATE FUNDS
(\$2,000,000)
(SWC Project No. 237-04)**

The city of Williston has completed construction of major improvements to its water treatment plant and transmission line, Phases I and II. The improvements cover regulatory, optimization, and expansion of the water system. Phase I improvements in 2002 were for filter

upgrades using Drinking Water State Revolving loan funds of approximately \$4,000,000. A new 36-inch transmission main line was completed in 2004 at a cost of \$4,000,000. Design for the \$21,500,000, Phase II, optimization/expansion project was completed in September, 2006. Work on Phase III, in the amount of \$10,800,000, is scheduled for 2011-2015 and includes backwash reclaim, solids contact, basin expansion, filter expansion, and transfer pumps, which is contingent upon the future regulatory requirements and expansion growth demands.

At its meeting on August 15, 2002, the State Water Commission approved eligibility of the city of Williston for future reimbursement of a federal MR&I grant of up to \$5,000,000 of the eligible project costs. The approval was subject to the future availability of federal funds, the city of Williston satisfy all MR&I program requirements, and the intention that the State of North Dakota be reimbursed \$5,000,000 using future federal MR&I grant funding authorized under the Dakota Water Resources Act of 2000.

On December 9, 2005, the State Water Commission approved a partial advance of the \$5,000,000 grant, not to exceed an allocation of \$1,000,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), to the city of Williston for its water system improvement project.

It was the recommendation of Secretary Frink that the State Water Commission approve an additional partial advance of the \$5,000,000 grant, not to exceed an allocation of \$2,000,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), to the city of Williston for its water system improvements project. Affirmative action is contingent upon the availability of funds. The projects are required to satisfy federal requirements during the entire process. Affirmative action by the State Water Commission would increase the total partial advance of the \$5,000,000 state grant to \$3,000,000.

It was moved by Commissioner Hanson and seconded by Commissioner Johnson that the State Water Commission approve an additional partial advance of the \$5,000,000 grant (approved by the State Water Commission on August 15, 2002), not to exceed an allocation of \$2,000,000 from the funds appropriated to the State Water Commission in the 2005-2007 biennium (H.B. 1021), for the city

of Wiliston water system improvements project. This motion is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**MR&I WATER SUPPLY PROGRAM -
APPROVAL OF PROPOSED
FISCAL YEAR 2007 MR&I
FEDERAL BUDGET (FUNDING
FOR NAWS PROJECT) -
(SWC Project No. 237-03)**

Secretary Frink presented and recommended the proposed MR&I Water Supply program budget allocation for fiscal year 2007 of \$4,052,943 for the State Water Commission's consideration. Secretary Frink explained that if the State Water Commission acts affirmatively on the recommendation as presented, the federal dollars for fiscal year 2007 would be committed:

tively on the recommendation as presented, the federal dollars for fiscal year 2007 would be committed:

***Fiscal Year 2007
MR&I Water Supply Program***

<u>Project</u>	<u>Activity</u>	<u>FY 2007 Approved</u>	<u>FY 2007 Proposed</u>	<u>FY 2007 Total</u>
NAWS (Minot)	D&C	\$ 0	\$3,840,000	\$3,840,000
Administration		\$ 212,943	\$ 0	\$ 212,943
Totals		\$ 212,943	\$3,840,000	\$4,052,943

Northwest Area Water Supply (NAWS) Project (Minot Component):

On March 24, 2006, Judge Rosemary Collyer approved the state and federal request to proceed with design and construction activities for three NAWS projects that would not affect the treatment decision: Minot high service pump station, Berthold pipeline, and the pipeline which would provide service north of the Minot water treatment plant. The estimated cost of the projects is \$25,480,000.

Contract 2-2A includes approximately 4 miles of 36" - 24" pipe and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52,

and to North Hill. The design for this project is covered under Specific Authorization 14A. On April 12, 2007, the State Water Commission authorized the award of contract 2-2A in the amount of \$5,876,766 to ERS Constructors, Centennial, CO.

Contract 2-2B includes approximately 21 miles of 14" - 8" pipe between the city of Minot at U.S. Highway 52 and the city of Berthold. The design work for this project is covered under Specific Authorization 41. On May 9, 2007, the State Water Commission authorized the award of contract 2-2B in the amount of \$3,094,675.94 to Northern Improvement Co., Fargo, ND.

Contract 5-2B covers the design work for a 750,000 gallon reservoir and a 500,000 gallon storage reservoir along the contract 2-2B contract pipeline between Minot and Berthold. The bid opening is scheduled for June 28, 2007.

Contract 4-2A covers the Minot high service pump station, at an estimated cost of \$12,820,000. The award of bid is anticipated in November, 2007. Contract 4-2A will use 2008 MR&I federal funding.

Funding for contracts 2-2A, 2-2B and 5-2B (\$12,660,000) would come from several sources: \$3,520,000 - 65 percent MR&I federal grant; \$80,000 in reprogrammed federal funding from the completed All Seasons Water System 4 project; \$1,000,000 - 65 percent state federal advance; \$3,630,000 - 65 percent city of Minot federal advance; and \$4,430,000 - 35 percent city of Minot cost share.

The proposed Fiscal Year 2007 funding, which includes an estimated \$4,052,93 for MR&I is pending final congressional approval. This amount includes \$3,840,000 (\$80,000 in reprogrammed federal funding from the completed All Seasons Water System 4 project, \$240,000 in Fiscal Year 2006 year-end funding, and \$3,520,000 in Fiscal Year 2007 funding) for the current federal NAWS commitments, and \$212,943 for administration. The city of Minot has indicated its intent to advance \$6,000,000 toward the 65 percent federal MR&I funding for the four contracts, and to provide a 35 percent cost share.

It was the recommendation of Secretary Frink that the State Water Commission approve the MR&I Water Supply program proposed allocation of \$4,052,943 for Fiscal Year 2007, which provides for an additional federal Fiscal Year 2007 MR&I grant allocation up to \$3,840,000 for the Northwest Area Water Supply Project, Minot component (not to exceed 65 percent of the eligible project costs), and \$212,943 for Fiscal Year 2007 administrative costs. The State Water Commission and the Garrison Diversion Conservancy District MR&I committee approved the proposed allocation for MR&I Fiscal Year 2007 on April 30, 2007.

It was moved by Commissioner Foley and seconded by Commissioner Berg that the State Water Commission approve the MR&I Water Supply program proposed allocation of \$4,052,943 for Fiscal Year 2007. This funding provides for an additional federal Fiscal Year 2007 MR&I grant allocation up to \$3,840,000 for the Northwest Area Water Supply Project, Minot component (not to exceed 65 percent of the eligible project costs), and \$212,943 for Fiscal Year 2007 administrative costs. This action is contingent upon the availability of federal funds, and is subject to future revisions.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
CONTRACT AND STATUS REPORT
(SWC Project No. 237-04)**

Michelle Klose, project manager for the Northwest Area Water Supply (NAWS) project, provided the following project status report:

Environmental Impact Statement: The Bureau of Reclamation published a notice of intent in the Federal Register on March 6, 2006 to initiate scoping for an environmental impact statement (EIS) on the NAWS project. The initial public scoping on the NAWS project was completed in May, 2006. The Bureau held the first meeting of the cooperating agencies team on August 22, 2006 to review comments received in the public scoping meetings. The Commission staff is providing technical information for the EIS as requested by the Bureau.

The Bureau is planning a cooperating agency meeting in June, 2007 to review their Denver office's cost estimate for the four treatment options being evaluated in the EIS.

Judge Collyer has requested a joint federal and state project status report prior to June 7, 2007.

The draft EIS is anticipated in August, 2007. The final EIS and Record of Decision are expected by October, 2008.

Pilot Plant Study: The pilot plant water quality sampling at the Snake Creek pumping plant was completed. Water quality and treatment ability information was collected and the results from this study will be available in late summer, 2007. The pilot plant was removed from the Snake Creek pumping plant during the week of May 7, 2007.

Berthold Line: Discussion continued with the North Prairie Water District on combining efforts for water service to rural residents along the Berthold route. A Berthold memorandum of understanding will be considered by the State Water Commission at its meeting on May 9, 2007, which will document the intentions regarding construction, operation, and water service from the pipeline.

The cities of Kenmare and Burlington, and the West River Water District have expressed interest in service from the Berthold line.

The city of Minot is developing a water rate study, which will be useful in developing the water service agreements for the Berthold line.

Project Funding: The interim financing agreement amendment with the city of Minot was executed in February, 2007. The city agreed to cost share in 14 percent of the high service pump station, and continue cost sharing in 35 percent of the remaining costs with the MR&I program. The city has also agreed to continue cost sharing in NAWS projects to Berthold and Mohall.

The city of Minot provided a written commitment in March, 2007 to advance funds up to \$6,000,000 in construction costs on five contracts that were approved by Judge Collyer.

The State Water Commission will consider a request for \$3,840,000 of federal funding for the NAWS project at its meeting on May 9, 2007.

Design Work Update - New Contracts: The NAWS project intends to bid the following contracts in 2007:

Contract 4-2A: This contract includes the Minot high service pump station and a 2 million gallon reservoir, which will be bid in the fall of 2007. The design work is being covered by Specific Authorization 17. An interim contract is being planned for this project to complete the site work and reroute the existing utilities around the footprint of the site during the summer of 2007.

Contract 5-2B: The design work for contract 5-2B covers a 750,000 gallon reservoir and a 500,000 gallon storage reservoir along the contract 2-2B pipeline between Minot and Berthold. The Commission staff will review the contract designs in May, 2007.

Construction Contracts Update:

Contract 2-2A: This contract will include approximately 4 miles of 36" - 24" pipe and associated facilities within the city of Minot, which includes pipeline from the high service pump station west to the U.S. Highway 83 bypass, south to U.S. Highway 52, and to North Hill. The design for this project is covered under Specific Authorization 14A. Contract 2-2A was awarded to ERS Constructors, Centennial, CO, on April 19, 2007. The preconstruction conference was held on May 8, 2007.

Contract 2-2B: This contract will include approximately 20 miles of 16" - 10" pipe and 3 booster pump stations between Minot at U.S. Highway 52 and the city of Berthold. The design work is being covered by Specific Authorization 41. The State Water Commission will consider the award of contract at its May 9, 2007 meeting.

Contract 2-1D: This contract covers 15 miles of 36-inch pipe between the city of Max and Totten Trail. The contractor is completing work relating to the vaults and pressure testing. The State Water Commission will consider the award of contract for seeding the area at its May 9, 2007 meeting.

NORTHWEST AREA WATER SUPPLY (NAWS) PROJECT - AUTHORIZE AWARD OF CONTRACT 2-2B, BERTHOLD PIPELINE AND PUMP STATIONS, TO NORTHERN IMPROVEMENT CO., FARGO, ND (SWC Project No. 237-04)

Bids were opened for Northwest Area Water Supply (NAWS) Project contract 2-2B, Berthold Pipeline and Pump Stations, on May 1, 2007. Contract 2-2B involves approximately 20 miles of 16 inch to 10 inch pipe and three booster stations. The project begins on the west side of Minot at the end of the contract

2-2A pipeline and continues to the community of Berthold. The project will be able to serve Berthold, North Prairie Rural Water District, North Central Water Consortium, Burlington, and the West River Water District from Minot's existing water supply while the treatment of water from Lake Sakakawea is being reviewed in the environmental impact statement.

This project was granted approval to proceed with design and construction by Judge Rosemary Collyer on March 24, 2006, while the lawsuit with Manitoba is pending. Due to limited MR&I federal funding, this project and the other approved projects are being funded through the combination of state, federal, Minot cost share, and Minot advanced funding. The approved projects are estimated at \$25,000,000 over the next two-three years. The city of Minot has provided a written agreement to provide a 35 percent cost share and up to \$6,000,000 in advance funding. This is the second of the approved projects to be bid.

There were nine bids received and eight bids were opened. The three lowest bids received were from the following for contract 2-2B: Northern Improvement Co., Fargo, ND; S.J. Louis Construction, Inc., Waite Park, MN; and Park Construction Co., Hampton, MN. The apparent low bid received was \$3,094,675.94 from Northern Improvement Co., Fargo, ND. The project engineer's estimate was \$3,780,000. The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening.

Michelle Klose, NAWS project manager, explained that the contract documents allow the State Water Commission to select the most advantageous bid. The contract documents required submission of experience on similar projects. The project engineer reviewed the bids and recommended the award of contract 2-2B to Northern Improvement Co., Fargo, ND. The contract will require approval by the Bureau of Reclamation, and the award of the contract and notice to proceed are dependent on the completion of the contract documents and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project, contract 2-2B, Berthold Pipeline and Pump Stations, in the amount of \$3,094,675.94 to Northern Improvement Co., Fargo, ND, contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project, contract 2-2B, Berthold Pipeline and Pump Stations, in the amount of \$3,094,675.94, to Northern Improvement Co., Fargo, ND. This action is contingent upon a legal review of the contract documents by the state, and written concurrence by the Bureau of Reclamation that the contract prerequisites have been satisfied.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
AUTHORIZE EXECUTION OF
BERTHOLD MEMORANDUM
OF UNDERSTANDING
(SWC Project No. 237-04)**

The construction, operation, and water service from the Northwest Area Water Supply (NAWS) Project main transmission pipeline between the city of Minot and the community of Berthold within the North Prairie Rural Water District service area is anticipated in 2007.

Discussions pursued with the NAWS advisory committee, city of Minot, North Prairie Rural Water District, North Central Water Consortium, and the State Water Commission staff relative to combining the efforts for water service to rural residents along the Berthold route. A cooperative effort by the above-listed parties to document the intentions regarding construction, operation, and water service from the pipeline resulted in the proposed Berthold line Memorandum of Understanding (MOU).

The proposed Memorandum of Understanding was presented for the State Water Commission's consideration. The MOU provisions were explained, and it was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to execute the MOU.

It was moved by Commissioner Olin and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to execute the Memorandum of Understanding for the construction, operation, and water service from the Northwest Area Water Supply (NAWS) project main transmission pipeline between the city of Minot and the community of Berthold within the North Prairie Rural Water District service area. The executed Memorandum of Understanding is attached hereto as APPENDIX "G".

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**NORTHWEST AREA WATER
SUPPLY (NAWS) PROJECT -
AUTHORIZE AWARD OF CONTRACT
2-1D-1.05, SEEDING DISTURBED
AREAS ASSOCIATED WITH
CONTRACT 2-1D, TO MAGIC
MILE WELDING, MINOT, ND
(SWC Project No. 237-04)**

Bids were opened for Northwest Area Water Supply (NAWS) Project contract 2-1D-1.05, seeding of the disturbed areas associated with NAWS contract 2-1D, on April 24, 2007. The contract involves seeding 67.9 acres and will be spring seeded if the 2-1D contractor completes pressure testing and seed bed preparations by May 15, 2007. The

unit price for mulch was included on the bid form in the event of fall seeding.

There were two bids received from the following for contract 2-1D-1.05: Magic Mile Welding, Minot, ND; and Precision Landscaping, Minot, ND. The bid received from Precision Landscaping, Minot, ND, was not opened because the bid did not contain the required copy of their contractor's license. The apparent low bid received was \$24,329 from Magic Mile Welding, Minot, ND. The contract documents specify that the State Water Commission has 90 days to award the contract after the bid opening.

Michelle Klose, NAWS project manager, explained that the contract documents allow the State Water Commission to select the most advantageous bid. The project engineer reviewed the bids and recommended the award of contract 2-1D-1.05 to Magic Mile Welding, Minot, ND. The award of the contract and notice to proceed are dependent on the completion of the contract documents and a legal review.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project contract 2-1D-1.05, to seed 67.9 acres of the disturbed areas associated with NAWS contract 2-1D, in the amount of \$24,329 to Magic Mile Welding, Minot, ND, contingent upon a legal review of the contract documents by the state.

It was moved by Commissioner Hanson and seconded by Commissioner Foley that the State Water Commission authorize the secretary to the State Water Commission to award Northwest Area Water Supply Project contract 2-1D-1.05, to seed 67.9 acres of the disturbed areas associated with NAWS contract 2-1D, in the amount of \$24,329 to Magic Mile Welding, Minot, ND This action is contingent upon a legal review of the contract documents by the state.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
CONTRACT AND STATUS REPORT
(SWC Project No. 1736)**

Tim Freije, project manager for the Southwest Pipeline Project, provided the following project status report:

Medora-Beach Regional Service Area, Phase II:

Contract 7-8B - Beach, Golva, and Fryburg Services Areas. The contractor, Abbot, Arne, Schwindt, Inc., completed installation of all pipeline and services on contract 7-8B. Two hundred fifty-nine (259) users have been turned over to the Southwest Water Authority as ready for service. The city of Golva began taking water on November 20, 2006. The contractor has begun cleanup and seedbed preparation work on the contract. The substantial completion date for contract 7-8B is July 15, 2007.

Contract 7-8C - Junction Inn Service Area and the Tower Hill and Crown Butte VFD Pocket Areas (Morton County Areas). The contractor, Northern Improvement Company, completed installation of 172 miles of pipeline on contract 7-8C. One hundred fifty-three (153) users have been turned over to the Southwest Water Authority as ready for service. The contractor has begun cleanup and seedbed preparations. The substantial completion date for contract 7-8C is September 7, 2007.

Prefinal inspections were completed on contract 7-8B, and are taking place on May 9, 2007 on contract 7-8C. Holland Contracting, Inc. has begun seeding work on both contracts. Final inspections on both contracts are anticipated in June/July, 2007.

Medora-Beach Regional Service Area, Phase III:

Contract 7-8D - South Fryburg Pocket. Bids were opened for contract 7-8D on April 12, 2007. USDA Rural Development funding was approved for the contract. The State Water Commission will consider the funding and award of contract at its meeting on May 9, 2007.

Final design is underway for the Trotters Pocket and Fairfield service areas. Submittal plans are anticipated in May, 2007 with a bid opening in early to mid-June, 2007. Sign ups in the three pockets have increased from 170 in November, 2006 to 286 currently.

Richardton and Dodge Pump Stations Standby Engine Generators:

On April 12, 2007, the State Water Commission approved the award of contract 4-2A/4-1C to Cummins N Power, LLC, Fargo, ND. The contract documents, payment and performance bond, and proof of insurance are being reviewed, and the schedule of work and submittals are anticipated in June, 2007.

Contract 7-9A - Beulah Interim Service Area: The contractor, Abbot, Arne, Schwindt, Inc., Moorhead, MN, completed installation of all pipeline and services on contract 7-9A. All users were turned over to the Southwest Water Authority as ready for service the week of November 13, 2006. The city of Zap began taking water on November 15, 2006. The contractor has completed cleanup, and the seedbed preparations. The prefinal inspection has been completed, with the final inspection anticipated in June/July, 2007.

Oliver-Mercer-North Dunn Regional Service Area: Public meetings were held with the city commissions of Beulah, Hazen, Center, Stanton, and Pick City, and with the Minnkota, Dakota-West Moorland, LeLand Olds, and AVS power plants in the Oliver-Mercer-North Dunn regional service area to increase awareness of and interest for the Southwest Pipeline Project. Citywide elections are required unless the city has home rule. Sign up meetings for rural users will be held in the Oliver, Mercer, and north Dunn area this fall and winter.

***SOUTHWEST PIPELINE PROJECT -
APPROVAL OF GENERAL
AUTHORIZATION RESOLUTION
FOR 2007 SERIES A BOND
(SWC Project No. 1736)***

The Medora-Beach regional service area, Phase III, is currently under construction. On April 12, 2007, bids were opened for contract 7-8D, South Fryburg Pocket. The State Water Commission will consider the award of contract 7-8D at its May 9, 2007 meeting. On March 28, 2007, a total funding package of \$2,309,900 was approved by USDA Rural Development, which consists of a \$1,426,000 loan and a \$883,900 grant.

At its December 8, 2000 meeting, the State Water Commission authorized the project officers identified in the Southwest Pipeline Project Water Development Revenue Bond documents to execute all USDA Rural Development documents in the loan and grant assistance application process up to, but not including, the sale of the bonds. The obligation of the State Water Commission does not occur until the bonds are approved for sale and have been closed. This action streamlined the completed application process for the 2007 Series A bond, which is to be used to fund construction of the South Fryburg Pocket.

In order to meet the obligations of USDA Rural Development funding for construction of the South Fryburg Pocket, the remaining documents to authorize the sale of the 2007 Series A bond require State Water Commission action. The 2007 Series A bond resolution was presented for the Commission's consideration which, if approved, will authorize the sale of \$1,426,000 in bonds with a 40-year term and an interest rate not to exceed 4.25 percent.

The 2007 Series A bond documents received final approval from USDA Rural Development, and closing instructions have been issued. Closing on the 2007 Series A bond is anticipated in July, 2007.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to execute the 2007 Series A bond resolution as presented, which has been satisfactorily reviewed by the State Water Commission's bond counsel and assistant attorney general.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to execute the 2007 Series A bond resolution for the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, Medora-Beach Regional Service Area, Phase III, South Fryburg Pocket. Executed bond resolution is attached hereto as APPENDIX "H".

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

***SOUTHWEST PIPELINE PROJECT -
MEDORA-BEACH REGIONAL SERVICE
AREA, PHASE III, SOUTH FRYBURG
POCKET - AUTHORIZE AWARD OF
CONTRACT 7-8D, TO ABBOT, ARNE,
SCHWINDT, INC., MOORHEAD, MN
(SWC Project No. 1736)***

On April 12, 2007, bids were opened for Southwest Pipeline Project contract 7-8D, Medora-Beach Regional Service Area, Phase III, South Fryburg Pocket. There were two bids received from the following for contract 7-8D: Abbot, Arne, Schwindt, Inc., Moorhead, MN; and Northern Improvement Co., Fargo, ND.

The apparent low bid received for bid schedule I was \$1,535,515.90 from Abbot, Arne, Schwindt, Inc., Moorhead, MN, which was \$377,344.10 under the project engineer's estimate of \$1,912,860.00 (24.6 percent).

The contract documents allow the State Water Commission to select the most advantageous bid. The project engineer reviewed the bids received and noted that the unit prices for pipe are lower than the unit prices received on contract 7-9A that was bid on March 29, 2006 on an average of 12 percent. The unit prices are higher than those received on contracts 7-8B and 7-8C that were bid in July and August, 2005, respectively. PVC prices have increased substantially since the natural disasters and have generally been correlated with rising PVC resin prices as oil prices have increased. The low bid received for the construction of contract 7-8D appears to be a responsive bid to the contract documents, and a reasonable cost in light of the higher PVC and oil prices. It was recommended by the project engineer to award contract 7-8D to Abbot, Arne, Schwindt, Inc., Moorhead, MN. The award of the contract and notice to proceed are dependent on the completion of the contract documents, approval by USDA Rural Development, and a legal review.

On March 28, 2007, a total funding package of \$2,309,900 was approved by USDA Rural Development, which consists of a \$1,426,000 loan and a \$883,900 grant. On May 9, 2007, the State Water Commission approved the execution of the 2007 Series A bond resolution for the North Dakota State Water Commission Water Development Revenue Bonds, Southwest Pipeline Project, Medora-Beach Regional Service Area, Phase III, South Fryburg Pocket. Based on the low bid received from Abbot, Arne, Schwindt for contract 7-8D and an estimate of the other project costs which include engineering, cultural resources, seeding, crop damages, easements, legal, and change order contingencies, the estimated total project costs and funding needs for this project are \$2,040,700. This amount is \$269,200 lower than the amount of funds secured from USDA Rural Development. Based on conversations between the staffs of the State Water Commission, Southwest Water Authority, and USDA Rural Development, the additional loan from USDA will be used on the project for paralleling existing pipe on the Missouri West water system to alleviate pressure and capacity constraints being experienced due to the significant increase in user additions on contract 7-8C in southern Morton county.

It was the recommendation of Secretary Frink that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8D, Medora-Beach Regional Service Area, Phase III, South Fryburg Pocket, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$1,535,515.90.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission authorize the secretary to the State Water Commission to award Southwest Pipeline Project contract 7-8D, Medora-Beach Regional Service Area, Phase III, South Fryburg Pocket, to Abbot, Arne, Schwindt, Inc., Moorhead, MN, in the amount of \$1,535,515.90. This action is contingent upon securing funds through USDA Rural Development.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

**SOUTHWEST PIPELINE PROJECT -
APPROVAL OF SOLE SOURCE
AMENDMENT TO CITY OF MEDORA
WATER SERVICE CONTRACT 1736-18
(SWC Project No. 1736)**

The Southwest Pipeline Project water service contract for the city of Medora is not a sole source service contract as most contracts with cities are. The contract requires the city to purchase and make payment for a minimum of 13,000,000 gallons of project water per year. This type of contract allows the city to blend water with water from its own source. The minimum purchase amount of 13,000,000 gallons per year was prorated to 9,750,000 gallons for nine months of 2005.

Project water was made available to the city of Medora on September 7, 2004, but because of difficulties encountered in preparing the city's distribution line system to accept project water, the city did not convert entirely to project water until August, 2005. To ensure that the minimum purchase amount was met, the city used 100 percent of pipeline water from early 2005 until late 2006 at which time the city switched back to its own supply. The citizens voiced concerns over the blending option, and the city council voted for a sole source contract in early 2007.

Under sole source service, a user agrees to use pipeline water for all of its needs. In exchange, the provision in the water service contract requiring purchase of a minimum amount is waived and the user is billed for the actual amount of water used.

It was the recommendation of Secretary Frink that the State Water Commission approve a sole source amendment to the city of Medora's Southwest Pipeline Project water service contract No. 1736-18. The sole source amendment was approved by the Southwest Water Authority on March 5, 2007.

It was moved by Commissioner Johnson and seconded by Commissioner Olin that the State Water Commission approve a sole source amendment to the city of Medora's Southwest Pipeline Project water service contract No. 1736-18. SEE APPENDIX "I"

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and Governor Hoeven voted aye. There were no nay votes. Governor Hoeven announced the motion unanimously carried.

Governor Hoeven left the State Water Commission meeting; the chair was assumed by William Goetz, Chief-of-Staff, Office of the Governor.

***DEVILS LAKE
HYDROLOGIC UPDATE
(SWC Project No. 416-01)***

Devils Lake is currently at an elevation of 1447.47 feet msl. At its current elevation, Devils Lake has a surface area of 127,200 acres and storage of 2.486 million acre-feet of water. Considering that outflows to Stump Lake have exceeded total gauged inflows, Devils Lake may have experienced its peak for 2007.

The current elevation of Stump Lake is 1445.79 feet msl. At this elevation, Stump Lake has a surface area of 14,350 acres and is storing 472,500 acre-feet of water. The gage on the Jerusalem channel was read at 101 cubic feet per second (cfs).

The combined volume of Devils Lake and Stump Lake is 2.96 million acre-feet, which is a decrease of 112,400 acre-feet since 2006, with Devils Lake decreasing 191,400 acre-feet and Stump Lake increasing 79,000 acre-feet. The combined volume of the lakes has decreased approximately 165,000 acre-feet since May 9, 2006 when Devils Lake was at its record elevation of 1449.2 feet msl.

According to the Jerusalem channel gage, approximately 97,000 acre-feet of water has flowed from Devils Lake into Stump Lake in the past year. There is approximately 23,000 acre-feet of storage available in Stump Lake between the current elevation and 1447.0 feet msl. The volume of water in Devils Lake above the Jerusalem channel divide elevation of 1446.1 is more than 166,000 acre-feet. Stump Lake is expected to rise to within one foot of the level of Devils Lake by August, 2007. The timing and elevation of equalization will largely depend on the peak elevation of Devils Lake.

The National Weather Service issued hydrologic projections for Devils Lake and Stump Lake on April 26, 2007. The following table provides the exceedance probabilities for each lake (figures are in feet msl) and are valid through September, 2007:

	<u>90%</u>	<u>50%</u>	<u>10%</u>
Devils Lake	1447.7	1447.9	1448.3
Stump Lake	1446.9	1447.4	1448.1

***NORTH DAKOTA DEVILS LAKE
OUTLET PROJECT REPORT
(SWC Project No. 416-07)***

The State of North Dakota pursued an emergency phased outlet project from West Bay to the Sheyenne River. The project was based on a three-year construction time line with construction commencing in the fall of 2002. Operation of the outlet began on August 15, 2005 within the guidelines of the North Dakota Pollutant Discharge Elimination System (NDPDES) water quality discharge permit issued by the North Dakota Department of Health.

The NDPDES water quality discharge permit specifies that the water may not have an average weekly sulfate concentration of more than 300 milligrams per liter. The sulfate levels in west Devils Lake and the Sheyenne River were both high enough to restrict discharges into the river, therefore, the outlet was not able to operate after September 1, 2005.

The North Dakota Department of Health authorized modifications to the North Dakota Pollutant Discharge Elimination System water quality discharge permit that would allow a more effective operation of the outlet. The modifications would: 1) allow pumping beyond the original May 1 to November 1 constraint as long as ice-free conditions exist on the Sheyenne River; 2) remove the

total suspended solids limit; and 3) adjust the current 300 mg/L instream sulfate level that would allow the outlet to be operated if the instream sulfate level is greater than 260 mg/L as long as the sulfate levels in the Sheyenne River were not increased more than 15 percent up to a maximum level of 450 mg/L.

On September 14, 2006, the People to Save the Sheyenne River, Inc., the Peterson Coulee Outlet Association, the Government of the Province of Manitoba, and the National Wildlife Federation filed an appeal to challenge the North Dakota Department of Health's modifications to the water quality discharge permit. The Appellants arguments include: 1) that the North Dakota Department of Health failed to demonstrate adequate causes for the permit modifications, or there was new information available now that was not available at the time the permit was issued on August 22, 2003; and 2) that the North Dakota Department of Health failed to conduct an anti-degradation review. The judge dismissed the appeal by the Province of Manitoba and other groups.

State Water Commission activities included the preparation of the outlet and the intake for the 2007 operation season. The outlet will be allowed to operate when the sulfate concentrations in the Sheyenne River at Bremen are below 450 mg/L and the conditions on the Sheyenne River are ice free. The permit modifications also removed the Total Suspended Solids limit of 100 mg/l.

***APPROVAL OF EXTENSION OF
DEVILS LAKE OUTLET AWARENESS
PROJECT MANAGER CONTRACT
FROM JULY 1, 2007 THROUGH
JUNE 30, 2008
(SWC Project No. 416-05)***

In 1998, the State Water Commission, the Garrison Diversion Conservancy District, the Devils Lake Basin Joint Water Resource Board, and the Forward Devils Lake Corporation initiated cost sharing in a contract securing the services of the Devils Lake outlet

awareness project manager, which is occupied by Joe Belford. The state has completed construction and operates a permanent outlet on the west end of Devils Lake. Secretary Frink expressed the importance to continue to provide factual information to all downstream interests in North Dakota, Minnesota and Manitoba. The downstream education efforts provide a critical mechanism to dispense information and for people downstream to communicate their concerns.

A request from the Devils Lake Joint Water Resource Board was presented for the State Water Commission's consideration to continue funding for the Devils Lake outlet awareness project manager from July 1, 2007 through June 30, 2008, with a 33 percent state cost participation (\$15,000). All other parties to the previous agreement have indicated their intentions to continue this effort.

It was the recommendation of Secretary Frink that the State Water Commission approve a contract extension from July 1, 2007 through June 30, 2008 for the Devils Lake outlet awareness project manager, with a 33 percent state cost participation not to exceed an allocation of \$15,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Berg and seconded by Commissioner Hillesland that the State Water Commission approve a contract extension from July 1, 2007 through June 30, 2008 for the Devils Lake outlet awareness project manager, with a 33 percent state cost participation not to exceed an allocation of \$15,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and William Goetz representing Governor Hoeven voted aye. There were no nay votes. Mr. Goetz announced the motion unanimously carried.

**APPROVAL OF EXTENSION OF
DEVILS LAKE BASIN MANAGER
CONTRACT FROM JULY 1, 2007
THROUGH JUNE 30, 2009
(SWC Project No. 416-01)**

Since 1998, the State Water Commission has participated with the Devils Lake Joint Water Resource Board in cost sharing for a full-time Devils Lake basin manager and an office for the board. Michael J. Connor occupies that

position and an office has been maintained in the Ramsey county courthouse. The Joint Board formally requested continued state cost participation.

The state cost participation arrangement would remain at 40 percent provided by the State Water Commission for a 24-month period, not to exceed a total of \$52,000 (\$26,000 annually). The Commission would pay the Joint Board for the actual expenses based on quarterly expense reports approved by the Commission. The remaining funds would be provided by the Devils Lake Basin Joint Board.

It was the recommendation of Secretary Frink that the State Water Commission approve a contract extension from July 1, 2007 through June 30, 2009 for the Devils Lake basin manager, with a 40 percent state cost participation not to exceed an allocation of \$52,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020).

It was moved by Commissioner Thompson and seconded by Commissioner Berg that the State Water Commission approve a contract extension from July 1, 2007 through June 30, 2009 for the Devils Lake basin manager, with a 40 percent state cost participation not to exceed an allocation of \$52,000 from the funds appropriated to the State Water Commission in the 2007-2009 biennium (S.B. 2020). This action is contingent upon the availability of funds.

Commissioners Berg, Foley, Hanson, Hillesland, Johnson, Olin, Swenson, Thompson, and William Goetz representing Governor Hoeven voted aye. There were no nay votes. Mr. Goetz announced the motion unanimously carried.

**GARRISON DIVERSION
CONSERVANCY DISTRICT
REPORT
(SWC Project No. 237)**

The Dakota Water Resources Act of 2000 authorized the Secretary of the Interior to conduct a comprehensive study of the water quantity and quality needs of the Red River valley in North

Dakota and possible options for meeting those needs. The Act identified two project-related studies which need to be completed: the *Report on Red River Valley Water Needs and Options*, and the *Red River Valley Water Supply Project Environmental Impact Statement (EIS)*. The Bureau of Reclamation has completed the *Report on Red River Valley Water Needs and Options*. The State of North Dakota and the Bureau are jointly preparing the EIS. Governor Hoeven designated the Garrison Diversion Conservancy District to represent the state in this endeavor.

The draft EIS was released in December, 2005, and public hearings were held in February and March, 2006. The comment period remains open while further analysis is done on issues that have been raised in the comments received to date. The scheduled completion for the final EIS is late summer, 2007. A supplemental draft EIS was completed with the comment period ending on April 25, 2007. Additional study efforts included: biota plant failure analysis by the United States Geological Survey (USGS); water quality monitoring by the USGS; impact analysis of Missouri River depletions under drought conditions by the Corps of Engineers; and, a cumulative impact analysis of ground-water depletions in Minnesota by the USGS.

The status report provided by the Garrison Diversion Conservancy District relating to the specific efforts of the Red River Valley Water Supply project and studies is attached hereto as **APPENDIX "J"**.

**2007 SPRING RUNOFF REPORT
(SWC Project No. 1431-08)**

State Water Commission staff memorandum dated April 30, 2007, and attached hereto as **APPENDIX "K"**.

The 2007 spring runoff and hydrologic conditions experienced statewide were discussed, which are summarized in a

**MISSOURI RIVER REPORT
(SWC Project No. 1392)**

19, 2007 showed the drought is likely to improve across the western part of the Dakotas and Nebraska, and showed some improvement on the drought in Wyoming. On April 27, 2007, the system storage in the six mainstem reservoirs was 36.5 million acre-feet (MAF), 19.7 MAF below the average system storage for the end of April and 1.2 MAF less than in 2006. The record minimum system storage for the end of April was 35.3 MAF in 2005. On April 27, 2007, Lake Sakakawea was at an elevation of 1808.6 feet msl, 3.4 feet lower than in 2006 and 25.2 feet msl below its average April elevation. The record minimum end of April elevation was 1806.6 feet msl in 2005.

Drought conditions persist in the Missouri River basin although the U.S. seasonal drought outlook released on April

The Corps of Engineers predicted runoff above Sioux City for 2007 to be 20.5 MAF, 82 percent of normal. This resulted in a forecast that the system will have 35.5 MAF at the end of 2007, the previous minimum end of year system storage was 34.4 MAF in 2006. Lake Sakakawea is forecasted to peak at 1812.6 feet msl at the end of July, 2007. The previous minimum end of July elevation for Lake Sakakawea was 1815.5 in 2006.

The Corps of Engineers basic forecast, 20.5 MAF of runoff, shows the navigation season being shortened by 53 days. The actual length of the navigation season will be determined by the amount of water in storage on July 1, 2007.

The elevation of Lake Oahe was at an elevation of 1577.7 feet msl on April 27, 2007, which is 0.4 feet higher than a year ago and 26.8 feet lower than its average end of April elevation. The Corps of Engineers is estimating that Lake Oahe will peak at 1581.0 feet msl by the end of June, 2007.

Fort Peck Lake was at an elevation of 2198.6 feet msl on April 27, 2007, which is 4.8 feet lower than a year ago and 31.7 feet below its average end of April elevation. The forecast calls for Fort Peck Lake to peak at 2199.5 feet msl by the end of June, 2007.

**DROUGHT DISASTER LIVESTOCK
WATER SUPPLY PROJECT
ASSISTANCE PROGRAM
(SWC Project No. 1851)**

The Drought Disaster Livestock Water Supply Project Assistance program, established by the North Dakota Legislature in 1991, is a state cost share participation program administered by

the State Water Commission that provides financial assistance to existing livestock producers with water supply problems caused by drought. North Dakota Administrative Code Article 89-11 was adopted by the Commission on June 24, 1991 for management of this program.

Water supply projects located in counties included in a drought disaster declaration and counties adjacent to those counties included in a drought disaster declaration are considered eligible for state cost participation. Types of projects that may be funded by the program include the construction of new wells, construction of dugouts or stock dams that are spring-fed or have a high water table, and pipelines and extensions from rural water system connections. North Dakota Century Code chapter 61-34 limits assistance to individual producers of 50 percent of project costs, not to exceed \$3,500, and authorizes the State Water Commission to provide funds for the program.

The State Water Commission allocated \$250,000 for the program on June 24, 1991, and an additional \$50,000 was allocated on July 1, 1992, for a total state contribution of \$300,000. The program was reactivated on July 1, 2002 following Governor Hoeven's issuance of North Dakota Drought Emergency Proclamation, Executive Order 2002-04. The Commission allocated \$200,000 on August 15, 2002 for the program for those counties identified in the executive order, and an additional allocation of \$150,000 on November 3, 2003, for a total state contribution of \$350,000 since program reinstatement. On March 10, 2005, the State Water Commission passed a motion that the remaining funds allocated to the program be expended, followed by program termination; and, that the program be reinstated, if necessary, through a revised North Dakota Drought Emergency Proclamation issued by the Governor.

On June 28, 2006, Governor Hoeven issued North Dakota Drought Emergency Proclamation, Executive Order 2006-05, which indicated a drought emergency existed in south central and southwestern North Dakota. Governor Hoeven subsequently issued Executive Order 2006-05.1 on July 12, 2006 to include all counties within North Dakota.

Pursuant to Executive Orders 2006-05 and 2006-05.1, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance Program on June 28, 2006. The Commission allocated \$200,000 for the program on June 28, 2006, \$200,000 on July 20, 2006, \$250,000 on October 12, 2006, and \$550,000 on February 15, 2007, for a total state contribution of

\$1,200,000 since program reinstatement on June 28, 2006. The Commission also approved proposed amendments to the North Dakota Administrative Code Article 89-11, Drought Disaster Livestock Water Supply Project Assistance Program, chapter 89-11, on July 20, 2006.

On July 20, 2006, the State Water Commission directed Secretary Frink to consult with the Office of Attorney General for a legal interpretation of North Dakota Century Code, chapter 61-34, whether an applicant can apply for multiple projects and be considered for cost participation up to \$3,500 for each water supply project. Contingent upon legal satisfaction from the Office of Attorney General staff, the State Water Commission passed a motion on July 20, 2006 that the Commission shall allow an applicant to apply for a maximum of three water supply projects, and the applicant shall be considered for a 50 percent state cost participation, not to exceed \$3,500, for each water supply project. Following a review of the applicable laws and administrative rules, it was the legal opinion that the State Water Commission has the flexibility to approve multiple projects for individual applicants.

The drought conditions continue to persist over a large portion of the state, and an urgent need for assistance with developing livestock water supplies exists. As of May 1, 2007, approximately 500 program applications had been submitted, of which about 450 applications were approved. Of those approvals, approximately \$938,577 has been expended for completed projects (for an average reimbursement of \$3,018 per producer). Of the \$1,200,000 allocated for the program, approximately \$261,422 remains available for reimbursement to producers. Applicants who were unable to complete their projects within the 180-day time limit were contacted to determine if they still require assistance. An extension of time was offered and 73 of the applicants have applied for an extension to complete their projects.

Secretary Frink informed the State Water Commission members that Senate Bill 2020, the Commission's appropriation bill for the 2007-2009 biennium, includes an amendment to section 61-34-04 of the North Dakota Century Code relating to the eligibility for assistance from the program. The amendment states: Notwithstanding any other provision of law, a water supply project commenced after application for funding is made but without prior approval of the state engineer is eligible for funding from the program.

The current status and long-term direction of the program were discussed, and it was the direction of the State Water Commission members that as required by North Dakota Century Code Chapter 61-34, the advisory committee appointed in 1991 to develop the administrative rules for the

management of the Drought Disaster Livestock Water Supply Project Assistance Program, reconvene for the purpose of reevaluating the administrative rules to reflect the legislative and State Water Commission instituted changes to the program.

**JULIE KRENZ, ASSISTANT
ATTORNEY GENERAL -
RECOGNITION OF APPRECIATION**

Julie Krenz, Assistant Attorney General, was recognized for her leadership in addressing North Dakota's critical water issues and in promoting water resource

management that will continue to enhance the lives of all North Dakota citizens for many generations. Ms. Krenz served as an assistant attorney general to the State Water Commission since 1992. In April, 2007, Ms. Krenz announced her termination from state government to pursue another opportunity.

Secretary Frink informed the Commission members that Matthew Sagsveen, assistant attorney general to the Commission, was hired to replace Ms. Krenz. Todd Sattler, assistant attorney general, has been assigned the Commission's portfolio to replace Mr. Sagsveen.

**RAYMOND CHRISTENSEN,
MANAGER/CEO, SOUTHWEST
WATER AUTHORITY -
RECOGNITION OF APPRECIATION**

Raymond Christensen, Manager/CEO of the Southwest Water Authority, was recognized for his leadership in the construction of the Southwest Pipeline Project that will enhance the lives of

southwestern North Dakota citizens for many generations. Mr. Christensen began his career with the State Water Commission in 1962, and for the past 21 years he has worked on the Southwest Pipeline Project. In 2001, Mr. Christensen was promoted to Manager/CEO of the Southwest Water Authority. After 45 years of serving the State of North Dakota, Mr. Christensen announced his retirement, effective June 30, 2007.

Mary Massad, Assistant Manager/CEO to the Southwest Water Authority, has been hired to replace Mr. Christensen, effective July 1, 2007.

**NEXT STATE WATER
COMMISSION MEETING**

The State Water Commission members expressed interest to hold its next meeting in conjunction with the Maple River Dam dedication.

The Commission members also requested that regular meetings be held on a more frequent basis to provide information and guidance in its decision-making process on water issues.

(Note: The next meeting of the State Water Commission is scheduled for July 17, 2007. The meeting will convene at 9:30 AM at the Governors Inn and Conference Center in Casselton, ND. Dedication of the Maple River Dam is scheduled for 2:30 PM at the project site.)

There being no further business to come before the State Water Commission, Mr. Goetz adjourned the meeting at 4:45 PM.



John Hoeven, Governor
Chairman, State Water Commission

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
State Water Commission

